

## EDITORIAL NOTE

The Law Review from its inception has worked to push the boundaries of academic literature, garnering literature from students, academicians and professionals. When Professor MP Singh, founded the journal back in 2008, he had a vision of an academic journal which provided a platform to academicians, professionals and students alike to express their views in a manner which would be conducive to educating readers about various dimensions of the law as it stands and the law as it should be. Professor Singh wished to create a journal which would be at par with foreign law school reviews in terms of quality. Throughout the years, the editorial boards have attempted to maintain the threshold of quality set by Professor Singh while ensuring the frequency of issues is consistent. The NUJS Law Review has sought to sustain and support legal excellence through its continued standards of publication.

Having completed 10 years, the Law Review continues to endeavour to bring together different perspectives on contemporary issues of law in order to enhance legal awareness and understanding. It has been a goal of the NUJS Law Review to consistently publish pieces which augment the existing literature through their innovative takes on various matters which have been the subject of discussion within the legal community. Till today the Law Review continues to remain one of the only quarterly law journals in India that is completely student-run, without any external support. The members of the Law Review continue to work to strive to achieve this vision, to uphold the ideals and goals set out over a decade ago.

We have sought to live up to Professor Singh's belief by putting forth a curated collection of analytical articles and insightful book reviews in each of our volumes. The position of respect of the NUJS Law Review in the legal community today is due to the untiring efforts of all the members of the editorial boards who have taken up the reins of this journal throughout its journey. We extend our gratitude to all previous members of the Editorial Board of the NUJS Law Review and contributing authors who have played a significant role in establishing NUJS Law Review as one of the most reputed law journals in the country.

This issue we are proud to present excellent literature on different areas of law and policy. Broadly, this issue covers areas of constitutional law, taxation, human rights, alternative dispute resolution and criminal law.

In the article titled *'How the 'Permanent Established Rule' Outlived its Utility in a Digitized World'*, authors Ashish Goel and Shilpa Goel explore the applicability of the "permanent establishment" rules relating to taxation with the rise of digital era transactions. Because of the evolving discourse relating to physical presence in a country and digital transactions, tax policies around the world are wrangling with issues relating to taxation and tax evasion. They argue for the establishment of the relaxation of the "permanent establishment" rule based on the recommendations provided that the OECD Base Erosion and Profit-Sharing Action Plan.

Authors MP Ram Mohan & Shashikant Yadav delve into the trends of judicial decision making in the highly litigious coal sector in their article *'Constitution, Supreme Court and Regulation of Coal Sector in India'*. The article provides important insights into the manner

in which courts have permitted and restricted the power of the Centre and states to introduce laws for the purpose of regulating and governing the coal sector. The emphasis of the judiciary on viewing coal as an important natural resource and the impact of this consideration on public interest based understanding of Centre-State relations is highlighted through this article.

In '*Formulating a Model Legislative Framework for Mediation in India*' authors Rashika Narain and Abhinav Sankaranarayanan address major lacuna in the existing legal framework in India relating to the use of alternative dispute resolution mechanisms, in particular mediation. Taking an empirical approach towards mediation they look at the minimum required qualifications for mediators to regulate disputes between parties and attempt to amicably resolve such disputes as quickly as possible. Additionally, they looked beyond the existing provisions relating to mediation, such as section 89 of the Civil Procedure Code, highlighting the requirement for legislatively enforceable confidentiality and enforceability. This would ensure that even without a contract specifically providing for the same parties would have an actionable cause for violation of such rights.

Aman Deep Borthakur pens in his article '*The Case for Inclusion of 'Battered Woman Defence' in India*' the requirement for the inclusion of the theoretical conception of the Battered Woman Syndrome (BWS). Going beyond the existing conceptions of necessity and rights to private defence, the author argues and advocates for the inclusion of this psychological conception within the law in order to provide an additional layer of protection for women who in situations of persistent violence should have a legal remedy for situations where they commit a criminal action against an individual in pursuance of the BWS, wherein the rights to private defence cannot be immediately attributable. Interestingly, relying on a comparative analysis, the author recommends for the inclusion of the principle of BWS within the Indian Penal Code and provide legislative backing for this protection.

Finally, Raveena Rao Kallakuru and Pradyumna Soni in '*Criminalisation of Marital Rape: Understanding its Constitutional, Cultural and Legal Impact*' call for the introduction of the criminalisation of "marital rape" within the scope of existing criminal laws of India. They highlight the existing relevance of criminalising "marital rape" within the scope of the existing constitutional framework in India. While there exist certain indirect remedies available in relation to criminal and civil law, they specifically call for the institution of a model framework within which victims of such abuse can seek remedy in the Indian legal framework.

This issue represents the NUJS Law Review's continued mission to address current matters of legal relevance and establish a strong bond with the existing framework of legal academia. The Law Review continues to strive to excel and provide accessibility to legal information throughout the legal fraternity. We would like to thank all of the editors, members and advisers throughout the process of preparing the current issue. We look forward to reaching out to you soon.

Truly,

Editorial Board (2018 – 2019)  
Volume 11 Issue 1

**January – March, 2018**

NUJS Law Review